

## 7A Am. Jur. 2d Automobiles § 71

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### Automobiles and Highway Traffic

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### III. Licensing, Taxation, and Registration

#### A. Vehicles

#### 3. Nature and Amount of Tax

##### a. In General

## § 71. Nature of license fee or tax; distinction from property tax

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Automobiles](#)  21, 45 to 51, 65, 97 to 103

Although motor vehicles may be taxed as property, the charge made in connection with the licensing and registration of motor vehicles generally is deemed to be a license fee or tax for the privilege of using the public highways, rather than a property tax, even where it is based on the vehicle's value,<sup>1</sup> or where the fees go into a general fund, but are earmarked for use to maintain and improve local roads.<sup>2</sup> Because they are not property taxes, such charges are not affected by constitutional provisions governing ad valorem taxes.<sup>3</sup> The charge is designated as an excise,<sup>4</sup> a license,<sup>5</sup> or a privilege<sup>6</sup> tax or fee, or as a service charge.<sup>7</sup> Such a tax or fee has sometimes been said to be in the nature of a toll for using the highways.<sup>8</sup> In some instances, the provisions of particular statutes imposing a charge in connection with the licensing or registration of motor vehicles have been held to impose a property tax,<sup>9</sup> or a combination privilege<sup>10</sup> or license<sup>11</sup> and property tax.

While the intent of the legislature as to whether a fee exacted in connection with the licensing or registration of a motor vehicle constitutes an exercise of the state's police power or the state's taxation power is not absolutely controlling,<sup>12</sup> it is an important factor in determining the nature of the fee.<sup>13</sup> Where the legislation creating a charge assessed for the privilege of operating overweight or overdimensional vehicles on state highways designates the charge as a license fee, it has been considered to be a license fee, which cannot be excessive in relation to the cost of administering the permit program, rather than a tax.<sup>14</sup>

Footnotes

- 1                    *Storaasli v. State of Minn.*, 283 U.S. 57, 51 S. Ct. 354, 75 L. Ed. 839 (1931); *Ingels v. Riley*, 5 Cal. 2d 154, 53 P.2d 939, 103 A.L.R. 1 (1936); *Ex parte Kessler*, 26 Idaho 764, 146 P. 113 (1915); *Camas Stage Co. v. Kozier*, 104 Or. 600, 209 P. 95, 25 A.L.R. 27 (1922).  
A fee applied to trailers used in transporting goods to and from Puerto Rico is not a tax, where the fees paid are held separately from general state funds, are dedicated exclusively to reimbursing private parties and covering administrative expenses, are collected only from those seeking the privilege of driving on state highways, and are proportioned to compensate victims for specified damages resulting from that activity. *Trailer Marine Transport Corp. v. Rivera Vazquez*, 977 F.2d 1 (1st Cir. 1992).  
As to the power to license or tax motor vehicles, generally, see §§ 60 to 70.  
As to methods of determining the amount of the tax, generally, see §§ 74 to 80.
- 2                    *Brown v. County of Horry*, 308 S.C. 180, 417 S.E.2d 565 (1992).
- 3                    *Ex parte Kessler*, 26 Idaho 764, 146 P. 113 (1915); *Kane v. Titus*, 81 N.J.L. 594, 80 A. 453 (N.J. Ct. Err. & App. 1911), *aff'd*, 242 U.S. 160, 37 S. Ct. 30, 61 L. Ed. 222 (1916); *State v. Mirabal*, 1928-NMSC-056, 33 N.M. 553, 273 P. 928, 62 A.L.R. 296 (1928); *Camas Stage Co. v. Kozier*, 104 Or. 600, 209 P. 95, 25 A.L.R. 27 (1922).  
As to the taxation of property on the basis of its value, generally, see *Am. Jur. 2d, State and Local Taxation* §§ 642 to 647.
- 4                    *Storaasli v. State of Minn.*, 283 U.S. 57, 51 S. Ct. 354, 75 L. Ed. 839 (1931).
- 5                    *Ex parte Kessler*, 26 Idaho 764, 146 P. 113 (1915); *Commonwealth v. Boyd*, 188 Mass. 79, 74 N.E. 255 (1905).
- 6                    *Ingels v. Riley*, 5 Cal. 2d 154, 53 P.2d 939, 103 A.L.R. 1 (1936); *Ex parte Kessler*, 26 Idaho 764, 146 P. 113 (1915); *Kane v. Titus*, 81 N.J.L. 594, 80 A. 453 (N.J. Ct. Err. & App. 1911), *aff'd*, 242 U.S. 160, 37 S. Ct. 30, 61 L. Ed. 222 (1916); *Camas Stage Co. v. Kozier*, 104 Or. 600, 209 P. 95, 25 A.L.R. 27 (1922).
- 7                    *Brown v. County of Horry*, 308 S.C. 180, 417 S.E.2d 565 (1992).
- 8                    *Hendrick v. State of Maryland*, 235 U.S. 610, 35 S. Ct. 140, 59 L. Ed. 385 (1915); *State v. Lawrence*, 108 Miss. 291, 66 So. 745 (1914); *Kane v. Titus*, 81 N.J.L. 594, 80 A. 453 (N.J. Ct. Err. & App. 1911), *aff'd*, 242 U.S. 160, 37 S. Ct. 30, 61 L. Ed. 222 (1916).
- 9                    *Powell v. Gleason*, 50 Ariz. 542, 74 P.2d 47, 114 A.L.R. 838 (1937); *Walker v. Bedford*, 93 Colo. 400, 26 P.2d 1051 (1933).
- 10                  *Raymond v. Holm*, 165 Minn. 215, 206 N.W. 166 (1925).
- 11                  *State v. Wetz*, 40 N.D. 299, 168 N.W. 835, 5 A.L.R. 731 (1918).
- 12                  *Vernor v. Secretary of State*, 179 Mich. 157, 146 N.W. 338 (1914); *Camas Stage Co. v. Kozier*, 104 Or. 600, 209 P. 95, 25 A.L.R. 27 (1922).
- 13                  *Vernor v. Secretary of State*, 179 Mich. 157, 146 N.W. 338 (1914); *Camas Stage Co. v. Kozier*, 104 Or. 600, 209 P. 95, 25 A.L.R. 27 (1922).
- 14                  *Com. v. Thomas Heavy Hauling, Inc.*, 889 S.W.2d 807 (Ky. 1994).  
As to the limitation of license fees to the cost of administering the program, generally, see § 72.